UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SERGEANTS BENEVOLENT ASSOCIATION :
HEALTH & WELFARE FUND, ET. Al.,   :

                    Plaintiff,   :

      - against -   :

ACTAVIS, PLC, ET AL.,   :

               Defendants.   :

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15-cv-6549 (CM) (RWL)

**ORDER ON DISCOVERY
OF THIRD PARTIES, REBATE
<u>DATA AND PRODUCT LISTS</u>**

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This is an antitrust case involving Namenda, a drug treatment for Alzheimer's disease. This order addresses (1) Plaintiff's objections to Defendant Forest's plan for serving subpoenas on third parties, and (2) Forest's requests for disaggregated rebate information and approved drug product lists. Having considered the parties' submissions and relevant prior proceedings, the Court orders as follows:

1. Forest may proceed with third-party discovery to the extent of serving document subpoenas for eight of the third-parties Forest has targeted. No third-party depositions shall be taken prior to the scheduled mediation.

2. Any concerns about HIPPA information should be dealt with pursuant to law and regulation in consultation with subpoenaed parties. Consideration should be given to whether documents produced by third parties require redaction and/or treatment in accordance with any existing or future protective order.

3. The Court will not prohibit discovery of "other" Alzheimer treatments for the reasons set forth in the Court's separate order addressing that issue. That said,

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the parties should focus in the short term on information that is essential to the upcoming mediation.

4. Defendants shall include counsel for Plaintiff SBA (and counsel for the Direct Purchasers where applicable) in negotiations for discovery from any absent class members.

5. Given Plaintiff SBA's ability and right to ask for and receive certain information from its pharmacy benefit manager, Optum Rx, SBA shall request OptumRx to provide disaggregated rebate data and approved drug lists for SBA. If OptumRx declines to provide the requested information, then Forest will need to pursue third-party discovery with OptumRx if it wants to obtain the information. Neither SBA nor Optum Rx are required to create or produce any data or drug list that does not exist.

SO ORDERED.

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ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: January 23, 2019
            New York, New York

Copies transmitted to all counsel of record.